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In re Application of
Ponziani, et al.
Application No. 10/775,864
Filed: February 10, 2004
Attorney Docket No. 13-DIV-132639B

: **OFFICE OF PETITIONS**
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:
: **ON PETITION**
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This is a decision on the petition under 37 CFR 1.181 filed on January 22, 2007, to withdraw the holding of abandonment.

The petition is **granted**.

The application became abandoned on April 18, 2006, after no response was received to the restriction/election requirement mailed March 17, 2006. The notice set a shortened period for reply of one month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 18, 2006.


Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The Power of Attorney and Correspondence Address Indication Form, filed January 22, 2007, is noted, but cannot be entered as it was not accompanied by a statement under 37 CFR 3.73(b) empowering the assignee to act in the application. A courtesy copy of this decision will be mailed to the address cited in the petition, but all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application file is being forwarded to Technology Center 3600, GAU 3663 for resetting of the time period for responding to the restriction/election requirement.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.


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